

Chapter H Nondiscriminatory Eligibility Criteria For Services

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I. STATUTORY AUTHORITY

RI GL 42-51-6 (3) Governor’s Commission on Disabilities – Duties ¹

II. DEFINITIONS

A. “The Commission” shall mean the [Governor’s Commission on Disabilities](#).

B. “State agency”² is defined in RI General Law 42-51-9 (3).

III. STATE AGENCY RESPONSIBILITY

A. State Agencies shall not impose or apply eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity. Such exclusionary criteria may be utilized if it can be shown to be necessary for the provisions of the service, program, or activity being offered³.

B. All state agencies shall conduct a self-evaluation of current eligibility criteria to determine whether those criteria screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any service, program, or activity.

IV. COMMISSION REVIEW AND APPROVAL

A. State agencies shall submit a request to the Governor’s Commission on Disabilities⁴, describing any eligibility criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities that the agency:

1. Believes are necessary for the provisions of the service, program or activity being offered; and
2. Would like to retain, impose or apply.

B. A committee appointed by the Commission shall conduct a public hearing on a state agency’s request to retain, impose or apply such criteria. A representative of the department proposing the criteria must attend the public hearing and be prepared to respond to questions

from the committee members. The state agency must submit, fifteen (15) business days in advance of the hearing:

1. A detailed description of all programs, activities, and services affected by the proposed criteria;
2. A description of each criteria that may screen out or tend to screen out individuals or classes of individuals with disabilities including the reason the criteria must be imposed or applied;

C. The Commission shall not approve a state agency's request to retain, impose or apply such criteria, unless:

1. The requested information (in item 2 above) is furnished;
2. Such criteria can be shown to be necessary for the provisions of the service, program, or activity being offered; and
3. The nature of the program, service, or activity would be fundamentally altered without the imposition or application of the proposed eligibility criteria.

V. FORMS

The Commission's staff shall prepare and revise any forms, as necessary.

VI. ENDNOTES

These endnotes are the text of several general laws and are provided for clarification and are not part of the regulation. They are subject to revision, as amended by the General Assembly.

¹ History: Rule proposed on December 11, 1995 Advertised on January 15, 1996 Adopted on March 25, 1996
Effective on March 27, 1996 Technical Revisions on October 10, 1997 Advertised October 21, 1999 Public
Hearing November 22, 1999 Amendment adopted November 22, 1999 Effective December 27, 1999
Technical Amendments Adopted September 13, 2003

² RIGL 42-51-9 (3) "State agency" means any department, division, agency, commission, board, office, bureau, council or authority, either branch of the Rhode Island general assembly or any agency or any committee thereof, or any other agency that is in any branch of Rhode Island state government and which exercises governmental functions.

³ 28 CFR 35.130 (b)(8)

⁴ Governor's Commission on Disabilities
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